

Joint Standing Committee on Marine Resources

LD 1445

An Act to Establish a Requirement That Holders of Lobster Fishing Licenses Must Own or Control the Vessel from Which They Conduct Authorized Activities

PUBLIC 693

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ETNIER	OTP-AM MAJ ONTP MIN	H-1028

LD 1445 proposed that holders of Class I, Class II and Class III lobster and crab fishing licenses must fish from a vessel owned or controlled by the license holder or a member of the license holder's family unless there is a documented illness or disability. This requirement would not apply to persons who, on the effective date of this Act, held a Class I, Class II or Class III license and were fishing from a vessel not owned or controlled by the license holder.

Committee Amendment "A" (H-102) proposed to replace the bill. It proposed to establish requirements regarding the use of boats to harvest lobsters and provide exemptions to those requirements. The amendment also proposed that the requirements would not go into effect unless the Department of Marine Resources were provided by August 1, 1999 dedicated revenues to fund the registration of marine resources license holders and other persons under laws that restrict participation in a fishery conducted in the coastal waters of the State. The amendment also proposed to require the Commissioner of Marine Resources to report by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the use of dedicated revenues for such registrations.

Regarding requirements on the use of boats to harvest lobsters, the amendment proposed that starting January 1, 2000, a person who harvests lobsters must fish from a boat that has on board an individual who harvests lobsters and who is the registered or documented owner of that boat, or who is a family member of that registered or documented owner. The amendment also proposed to make certain exemptions from the requirements for boats that are owned by partnerships, corporations or other entities. Under those exemptions, the Commissioner of Marine Resources could authorize a person to use a vessel to harvest lobsters in the following cases:

1. If the owner, because of an illness or disability, were temporarily unable to harvest lobsters, a person who was not the owner or a family member could use the boat to harvest lobsters and to tend the owner's lobster traps;
2. If the owner's boat were temporarily inoperable, the owner could utilize another person's boat to harvest lobsters;
3. If a person harvested lobsters for 46 days during a 3-month period in each of calendar years 1995, 1996 and 1997 from a boat upon which an owner or family member of the owner was not on board, that person could continue to harvest lobsters from that boat, or a boat that replaces that boat. The person would be required to document to the Commissioner of Marine Resources the facts required for the exemption by December 31, 2000; or

4. If an individual or business made available a boat to a person for the purpose of harvesting lobsters for 46 days during a 3-month period in each of calendar years 1995, 1996 and 1997, that individual or business could continue to make that boat, or a replacement boat, available to a person for the purpose of harvesting lobsters. The individual or business would be required to document to the Commissioner of Marine Resources the facts required for the exemption by December 31, 2000.

It also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 693 establishes requirements regarding the use of boats to harvest lobsters and it provides exemptions to those requirements. It also provides that the requirements will not go into effect unless the Department of Marine Resources is provided by August 1, 1999 dedicated revenues to fund the registration of marine resources license holders and other persons under laws that restrict participation in a fishery conducted in the coastal waters of the State. The law requires the Commissioner of Marine Resources to report by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the use of dedicated revenues for such registrations.

Regarding requirements on the use of boats to harvest lobsters, the law provides that starting January 1, 2000, a person who harvests lobsters must fish from a boat that has on board an individual who harvests lobsters and who is the registered or documented owner of that boat, or who is a family member of that registered or documented owner. The law makes provisions for boats that are owned by partnerships, corporations or other entities. It provides exemptions from these requirements under which the Commissioner of Marine Resources may authorize a person to use a vessel to harvest lobsters in the following cases:

1. If the owner, because of an illness or disability, is temporarily unable to harvest lobsters, a person who is not the owner or a family member may use the boat to harvest lobsters and to tend the owner's lobster traps;
2. If the owner's boat is temporarily inoperable, the owner may utilize another person's boat to harvest lobsters;
3. If a person harvested lobsters for 46 days during a 3-month period in each of calendar years 1995, 1996 and 1997 from a boat upon which an owner or family member of the owner was not on board, that person may continue to harvest lobsters from that boat, or a boat that replaces that boat. The person must document to the Commissioner of Marine Resources the facts required for this exemption by December 31, 2000; or
4. If an individual or business made available a boat to a person for the purpose of harvesting lobsters for 46 days during a 3-month period in each of calendar years 1995, 1996 and 1997, that individual or business may continue to make that boat, or a replacement boat, available to a person for the purpose of harvesting lobsters. The individual or business must document to the Commissioner of Marine Resources the facts required for this exemption by December 31, 2000.

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-493

LD 1478 proposed to enhance enforcement of marine resources laws by making enforcement easier and reducing the number of contested cases. It proposed to redefine several criminal violations as civil violations to allow efficient processing by the courts. The bill also proposed to make the general penalty for violation of the marine resources law a civil violation for which a forfeiture of not less than \$100 and not more than \$500 would be adjudged. Violations that the bill proposed to leave as crimes were amended to specifically state that they are Class D crimes.

Committee Amendment "A" (S-493) proposed to strike the bill. It proposed to clarify that a violation of the State's soft-shell clam management provisions is a Class D crime. It proposed to remove the maximum amount that a person could be fined for a violation. It also proposed to clarify that greater penalties for violations committed after the first violation of the State's soft-shell management provisions apply for a period of 10 years from the date of conviction of the first violation.

Enacted law summary

Public Law 1997, chapter 628 clarifies that a violation of the State's soft-shell clam management provisions is a Class D crime. It removes the maximum amount that a person may be fined for a violation. It also clarifies that greater penalties for violations committed after the first violation of the State's soft-shell management provisions apply for a period of 10 years from the date of conviction of the first violation.

Sponsor(s)
GOLDTHWAIT
ETNIER

Committee Report
OTP-AM

Amendments Adopted
S-557
S-595 GOLDTHWAIT

LD 1968 proposed to repeal the council's authority to certify the quality and grade of sardines and to embargo any lot of sardines that is not in conformance with labeling standards. It also proposed to reduce the rate of the Maine sardine excise tax and raise the excise tax on kippers, steaks and other canned herring products.

Committee Amendment "A" (S-557) proposed to strike from the bill an increase from 10¢ to 15¢ in the per-case tax paid on the packaging of kippers, steaks and other canned sardine products. It also proposed to make retroactive to January 1, 1998 the reduction in the bill from 30¢ to 15¢ in the per-case tax on the packaging of sardines. It also proposed to add a retroactivity clause, an allocation section and a fiscal note to the bill.

Senate Amendment "A" (S-595) proposed to make employees of the Maine Sardine Council state employees for the purposes of retirement benefits. It proposed to transfer all of the council's assets, liabilities and accounts from its consolidated retirement participating local districts plan under the state retirement system to the state regular plan under the state retirement system. It also proposed to require that any costs associated with coverage of

employees of the Maine Sardine Council under the state employee health insurance program for the purposes of retirement health insurance for the period from July 1, 1994 to March 1, 1998 be paid by the Maine Sardine Council pursuant to an agreement between the council and the Department of Administrative and Financial Services.

This amendment also proposed to add a fiscal note to the bill

Enacted law summary

Public Law 1997, chapter 706 repeals the council's authority to certify the quality and grade of sardines and to embargo any lot of sardines that is not in conformance with labeling standards. This bill also reduces the rate of the Maine sardine excise tax from 30¢ to 15¢, retroactive to January 1, 1998.

It also makes employees of the Maine Sardine Council state employees for the purposes of retirement benefits. It transfers all of the council's assets, liabilities and accounts from its consolidated retirement participating local districts plan under the state retirement system to the state regular plan under the state retirement system. It also requires that any costs associated with coverage of employees of the Maine Sardine Council under the state employee health insurance program for the purposes of retirement health insurance for the period from July 1, 1994 to March 1, 1998 be paid by the Maine Sardine Council pursuant to an agreement between the council and the Department of Administrative and Financial Services. Chapter 706 was enacted as an emergency measure effective April 13, 1998.

LD 1998

**An Act to Increase the Cap on the Total Acreage of Aquaculture
Leases That May Be Held by One Person**

PUBLIC 609

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ETNIER	OTP-AM MAJ	H-802
PINGREE	ONTP MIN	

LD 1998 proposed to raise to 250 acres the cap for total acreage of aquaculture leases in which a person can hold an interest. Under current law, a person may not hold an interest in aquaculture leases that cover an aggregate of more than 150 acres unless the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture.

Committee Amendment "A" (H-802) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 609 raises from 150 acres to 250 acres the total acreage of aquaculture leases in which a person can hold an interest.

LD 2011

An Act to Correct Certain Inconsistencies in the Marine Resources Laws

PUBLIC 572

Sponsor(s)
GOLDTHWAIT
ETNIER

Committee Report
OTP

Amendments Adopted

LD 2011 proposed to clarify that terms on the Department of Marine Resources Lobster Advisory Council of members representing lobster management policy councils are coterminous with their terms on the policy council.

The bill also proposed to clarify eligible activities under the scallop boat license.

Enacted law summary

Public Law 1997, chapter 572 clarifies that terms on the Department of Marine Resources Lobster Advisory Council of members representing lobster management policy councils are coterminous with their terms on the policy council. It also clarifies eligible activities under the scallop boat license.

LD 2014

An Act Concerning Elver Fishing

**PUBLIC 575
EMERGENCY**

Sponsor(s)
GOLDTHWAIT
ETNIER

Committee Report
OTP-AM

Amendments Adopted
S-454

LD 2014 proposed the following changes to the laws regarding elver fishing:

1. That the excluder panel required in the elver fyke net may have a mesh that is smaller than 1/2 inch bar mesh.
2. Further define the term "fyke net" to mean a net that consists of not more than one funnel end, one cod end and 2 wings.
3. Specify that an elver trap tag must be affixed to the net at the shoreside wing and be clearly visible.
4. Add an additional closed period to the weekly fishery closure.
5. Amend the laws regarding where it is unlawful to use an elver dip net.
6. Restore the provision that the time of measurement of the middle 1/3 of a stream for purposes of placement of elver nets is at high tide. The bill also proposed to make it unlawful to obstruct more than 1/3 of the width of any river, stream, brook or other watercourse at mean low tide.

Committee Amendment "A" (S-454) proposed to change the definition of an elver fyke net to include that an elver fyke net may not have more than one funnel end, one cod end and 2 wings. It also proposed to make the prohibition on setting nets in the middle of a watercourse apply any time as measured at high tide. In addition, it proposed to

prohibit the obstruction of the middle 1/3 of a watercourse as measured at low tide. The amendment also proposed to add an emergency preamble, emergency clause and a fiscal note.

Enacted law summary

Public Law 1997, chapter 575 makes several changes to the laws regarding elver fishing. It provides that the excluder panel required in the elver fyke net may have a mesh that is smaller than 1/2 inch bar mesh. It further defines the term "fyke net" to mean a net that consists of not more than one funnel end, one cod end and 2 wings. It specifies that an elver trap tag must be affixed to the net at the shoreside wing and be clearly visible. It adds an additional closed period to the weekly fishery closure. It amends the laws regarding where it is unlawful to use an elver dip net. It makes the prohibition on setting nets in the middle of a watercourse apply any time as measured at high tide. In addition, it prohibits the obstruction of the middle 1/3 of a watercourse as measured at low tide. Chapter 575 was enacted as an emergency measure effective February 27, 1998.

LD 2021

An Act Concerning Commercial Fishing in the Vicinity of Monhegan Island

PUBLIC 574

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOLDTHWAIT	OTP-AM MAJ	S-464
HONEY	OTP-AM MIN	

LD 2021 proposed to establish in statute the Monhegan Lobster Conservation Area surrounding Monhegan Island and limit lobster fishing in that area by limiting the number of participants to those who registered to fish in the area under Department of Marine Resources rules in 1996 and who fished in the area between January 1, 1997 and June 30, 1997. A person would be allowed into the Monhegan Fishery as a new participant only if the person completes a 2-year apprenticeship and an existing participant leaves the fishery. The purpose of the training program would be to foster stewardship through knowledge of local environmental and ecological conditions and local fishing practices.

Committee Amendment "A" (S-464) was the majority report and it replaced the bill. It proposed to create the Monhegan Lobster Conservation Area in the state waters surrounding Monhegan Island. It would prohibit a person from harvesting lobsters from the area unless the person used lobster traps fitted with tags designated for use in the area.

It proposed to limit fishing in the area during the initial 1998-99 open season to people who were registered under Department of Marine Resources rules for harvesting in the area from January 1, 1997 to June 25, 1997; harvested lobsters from the area any time between January 1, 1997 to June 25, 1997; and possess Class I, Class II or Class III lobster and crab fishing licenses. A person who not initially eligible to harvest lobsters in the area could become eligible if the person completes a minimum 2-year apprenticeship and if a harvester left the area's lobster fishery. A person who holds a student lobster license could fish up to 15 traps in the Monhegan Lobster Conservation Area provided the person fished with a person who is registered to harvest lobsters in the area.

The amendment proposed that the open season for the Monhegan Lobster Conservation Area be a 180-day period between December 1st and June 25th of the following year established annually by the Commissioner of Marine Resources.

The amendment proposed that a person who harvests lobsters in the Monhegan Lobster Conservation Area could not fish in any other state waters at any time and could not harvest lobsters in federal waters during the area's closed season.

The amendment also proposed to create a 13-member task force to study the use of subzones within the current lobster zone structure. The task force would be required to report its findings and recommendations by January 1, 1999.

The amendment also proposed to strike the emergency preamble and clause. It also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 574 creates the Monhegan Lobster Conservation Area in the state waters surrounding Monhegan Island. It prohibits a person from harvesting lobsters from the area unless the person uses lobster traps fitted with tags designated for use in the area.

It limits fishing in the area during the initial 1998-99 open season to people who were registered under Department of Marine Resources rules for harvesting in the area from January 1, 1997 to June 25, 1997; harvested lobsters from the area any time between January 1, 1997 to June 25, 1997; and possess Class I, Class II or Class III lobster and crab fishing licenses. A person who is not initially eligible to harvest lobsters in the area may become eligible if the person completes a minimum 2-year apprenticeship and if a harvester leaves the area's lobster fishery.

A person who holds a student lobster license may fish up to 15 traps in the Monhegan Lobster Conservation Area provided the person fishes with a person who is registered to harvest lobsters in the area.

The open season for the Monhegan Lobster Conservation Area is a 180-day period between December 1st and June 25th of the following year established annually by the Commissioner of Marine Resources.

A person who harvests lobsters in the Monhegan Lobster Conservation Area may not fish in any other state waters at any time and may not harvest lobsters in federal waters during the area's closed season.

The law also creates a 13-member task force to study the use of subzones within the current lobster zone structure. The task force must report its findings and recommendations by January 1, 1999.

LD 2026 An Act Concerning Lobster Policy Management Council Referenda ONTP

<u>Sponsor(s)</u> GOLDTHWAIT ETNIER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 2026 proposed that a ballot in a referendum held by a lobster policy management council must have the voter's lobster and crab license number on it to establish it as a legitimate ballot from an eligible voter. It also proposed to provide that a ballot, once submitted, can not be identified with an individual.

LD 2127 An Act to Amend the Nonresident Municipal Shellfish License Fee PUBLIC 589

The amendment also proposed to allow the tribe to issue an initial number of up to 24 licenses in the restricted lobster fishery and an annual number of up to 24 licenses in the restricted sea urchin fishery.

The amendment also proposed to direct the Maine Indian Tribal-State Commission to study any questions or issues regarding the taking of marine resources by members of the Passamaquoddy Tribe and the Penobscot Nation. The commission would be required to report any findings and recommendations to the Joint Standing Committee on Marine Resources by December 15, 1998.

The amendment also proposed to state that the Act is not an amendment to the Maine Indian Claims Settlement Act and that ratification by the Passamaquoddy Tribe would not be required. In the event a court found that the Act or a portion of it is an amendment to the Maine Indian Claims Settlement Act, the Act or that portion of it, if separable, would be void.

The amendment also proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-599) proposed to require that members of the Passamaquoddy Tribe who fish for sea urchins for sustenance use, as would be allowed in Committee Amendment "A", could not harvest sea urchins during periods in which holders of state licenses may not harvest sea urchins. In addition, the amendment proposed to remove language from Committee Amendment "A" that required a member of the tribe who fishes for elvers to utilize elver fishing gear that is tagged with sustenance use elver tags issued by the tribe in a manner that is consistent with tags required for elver gear used by holder of state elver licenses.

Enacted law summary

Public Law 1997, chapter 708 exempts Passamaquoddy tribal members who are residents of Maine from licensing by the State when taking marine resources for commercial use, for sustenance use or for tribal ceremonial use under a special tribal permit. Tribal members are subject to the same laws and rules and enforcement as are people who hold a state license; however, a tribal member who harvests sea urchins for sustenance purposes must comply with state sea urchin seasons. Tribal licenses and permits must be filed with the Commissioner of Marine Resources.

The law also allows the tribe to issue an initial number of up to 24 licenses in the restricted lobster fishery and an annual number of up to 24 licenses in the restricted sea urchin fishery.

The law also directs the Maine Indian Tribal-State Commission to study any questions or issues regarding the taking of marine resources by members of the Passamaquoddy Tribe and the Penobscot Nation. The commission must report any findings and recommendations to the Joint Standing Committee on Marine Resources by December 15, 1998.

The law also states that the law is not an amendment to the Maine Indian Claims Settlement Act and that ratification by the Passamaquoddy Tribe is not required. In the event a court finds that the law or a portion of it is an amendment to the Maine Indian Claims Settlement Act, the law or that portion of it, if separable, is void. Chapter 708 was enacted as an emergency measure effective April 3, 1998.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ETNIER	OTP-AM MAJ ONTP MIN	H-1026

LD 2176 proposed several measures regarding the sea urchin laws. It proposed to repeal the moratorium on new entrants into the sea urchin fishery on December 31, 1998 and replace it with a lottery system for new entrants to obtain sea urchin harvesting licenses. The lottery system would be in effect in calendar years 1999 and 2000. It would extend until January 1, 2003 the requirement that all sea urchin licenses issued to an individual be issued only for one of the two sea urchin harvesting zones. It would extend the sea urchin license surcharges through calendar year 2002. It also proposed that up to 30% of the license surcharge revenue be used for enforcement purposes. It also proposed two separate seasons for fishing in Zone 2 and would have required a Zone 2 harvester to fish in only one of those seasons. It also proposed to add a sea urchin boat tender to the Sea Urchin Zone Council. It also proposed to require the Commissioner of Marine Resources to report to the Legislature by February 1, 2000 on the sea urchin lottery system.

Committee Amendment "A" (H-1026) proposed to extend for one year, through 2001, the sea urchin license lottery system proposed in the bill. It proposed to allow the commissioner to include in rules establishing the system provisions allowing multiple entries into a lottery based upon prior licensed activity in the sea urchin fishery. It also proposed to clarify that under a license lottery system, lotteries must be held for each of the 2 sea urchin zones, a person may not enter more than one lottery each year and a combination lottery may be held for sea urchin handfishing, trapping and raking licenses.

The amendment proposed to extend through 2001 the surcharges on sea urchin licenses. It proposed to clarify the provisions of the bill under which 2 seasons are designated in Zone 2. A person who harvests sea urchins in Zone 2 could harvest during only one of the seasons.

The amendment proposed to require a report on the lottery system by January 15, 2001. It proposed to repeal the lottery system and other emergency sea urchin provisions on January 1, 2002.

The amendment also proposed to require a report by January 15, 1999 on the designation of zones to manage the sea urchin resource, the feasibility, practicality and methods of electing members to the Sea Urchin Zone Council, the establishment of separate councils for each sea urchin zone and any other matter of interest regarding the management and conservation of sea urchins.

The amendment also proposed to add an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 685 repeals the moratorium on new entrants into the sea urchin fishery on December 31, 1998 and replace it with a lottery system for new entrants to obtain sea urchin harvesting licenses. The lottery system is in effect in calendar years 1999, 2000 and 2001. It allows the Commissioner of Marine Resources to include in rules establishing the system provisions allowing multiple entries into a lottery based upon prior licensed activity in the sea urchin fishery. Lotteries must be held for each of the 2 sea urchin zones, a person may not enter more than one lottery each year and a combination lottery may be held for sea urchin handfishing, trapping and raking licenses.

The law extends until January 1, 2002 the requirement that all sea urchin licenses issued to an individual be issued only for one of the two sea urchin harvesting zones. It extends the sea urchin license surcharges through calendar

year 2001. It allows up to 30% of the license surcharge revenue be used for enforcement purposes. It also provides for two separate seasons for fishing in Zone 2 and requires a Zone 2 harvester to fish during only one of those seasons. It also adds a sea urchin boat tender to the Sea Urchin Zone Council. It also requires the Commissioner of Marine Resources to report to the Legislature by January 15, 2001 on the sea urchin lottery system. The law also requires the Commissioner of Marine Resources to report by January 15, 1999 on the designation of zones to manage the sea urchin resource, the feasibility, practicality and methods of electing members to the Sea Urchin Zone Council, the establishment of separate councils for each sea urchin zone and any other matter of interest regarding the management and conservation of sea urchins.

LD 2226

An Act to Limit New Lobster and Crab Fishing Licenses

PUBLIC 747

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-1004
	ONTP MIN	S-739 MICHAUD

LD 2226 proposed a moratorium on commercial lobster and crab fishing licenses. It proposed to provide that until December 31, 1999 commercial lobster and crab fishing licenses may only be issued to a person who held a license in the previous calendar year, who possessed an apprentice lobster and crab fishing license issued prior to February 13, 1998 and meets the requirements of the apprentice program or who did not possess a commercial lobster and crab fishing license in the previous calendar year because of a license suspension.

Committee Amendment " A " (H-1004) proposed to require the Lobster Advisory Council to study limited entry into lobster management zones and submit a report by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over marine resources matters.

Senate Amendment "A" to Committee Amendment "A" (S-739) proposed to replace the fiscal note to Committee Amendment "A."

Enacted law summary

Public Law 1997, chapter 747 places a moratorium on commercial lobster and crab fishing licenses by requiring that until December 31, 1999 commercial lobster and crab fishing licenses may only be issued to a person who held a license in the previous calendar year, who possessed an apprentice lobster and crab fishing license issued prior to February 13, 1998 and meets the requirements of the apprentice program or who did not possess a commercial lobster and crab fishing license in the previous calendar year because of a license suspension. The laws also requires the Lobster Advisory Council to study limited entry into lobster management zones and submit a report by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over marine resources matters.

LD 2235

Resolve, Regarding Legislative Review of Chapter 2.10: Aquaculture Lease Regulations, Lease Categories and Environmental Baseline, a Major Substantive Rule of the Department of Marine Resources

**RESOLVE 93
EMERGENCY**

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 2235 proposed that the Legislature approve major substantive rules developed by the Department of Marine Resources regarding regulations, categories and environmental baselines for aquaculture leases.

Enacted law summary

Resolve 1997, chapter 93 approves major substantive rules developed by the Department of Marine Resources regarding regulations, categories and environmental baselines for aquaculture leases. Chapter 93 was enacted as an emergency measure effective March 18, 1998.